



DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-125]

Certain Vertical Shaft Engines Between 99cc and Up To 225cc, and Parts Thereof from the People's Republic of China: Final Affirmative Countervailing Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that countervailable subsidies are being provided to producers and/or exporters of certain vertical shaft engines between 99cc and up to 225cc, and parts thereof (small vertical engines) from the People's Republic of China (China). The period of investigation is January 1, 2019, through December 31, 2019.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Ajay Menon or Adam Simons, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1993 or (202) 482-6172, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 24, 2020, Commerce published the *Preliminary Determination*.¹ The petitioner in this investigation is Briggs & Stratton, Corporation. In addition to the Government of China (GOC), the mandatory respondents in this investigation are Chongqing Kohler Engines Ltd. (Chongqing Kohler) and Chongqing Zongshen General Power Machine Co. (Chongqing Zongshen).

¹ See *Certain Vertical Shaft Engines Between 99cc and up to 225cc, and Parts Thereof, from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Duty Determination*, 85 FR 52086 (August 24, 2020) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum.

A summary of the events that occurred since Commerce published the *Preliminary Determination* and a full discussion of the issues raised by parties for this final determination are provided in the Issues and Decision Memorandum.² The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/index.html>. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Scope of the Investigation

The product covered by this investigation is small vertical engines from China. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the preamble to Commerce's regulations,³ the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).⁴ Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice* and we addressed these comments in the *Preliminary Determination*, preliminarily modifying the scope of this and the companion antidumping duty (AD) investigation to exclude commercial engines.⁵ We established a period of time for parties to address scope issues in

² See Memorandum, "Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Certain Vertical Shaft Engines Between 99cc and Up To 225cc, and Parts Thereof from the People's Republic of China," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

³ See *Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

⁴ See *Certain Vertical Shaft Engines between 99cc and up to 225cc, and Parts Thereof from the People's Republic of China: Initiation of Countervailing Duty Investigation*, 85 FR 20667 (April 14, 2020) (*Initiation Notice*).

⁵ See *Preliminary Determination*, 85 FR at 52087; *see also* Memorandum, "Antidumping and Countervailing Duty Investigations of Certain Vertical Shaft Engines Between 99cc and Up To 225cc, and Parts Thereof from the People's Republic of China: Scope Comments Decision Memorandum for the Preliminary Determination," dated August 17, 2020 (Preliminary Scope Decision Memorandum).

scope case and rebuttal briefs,⁶ and we received such comments, which we addressed in the Final Scope Decision Memorandum.⁷

On November 6, 2020, we issued a memorandum providing parties an opportunity to comment on the overlap in the scopes of this and the concurrent AD investigation on small vertical engines and that of the AD and countervailing duty (CVD) investigations on certain walk-behind lawn mowers and parts thereof (lawn mowers).⁸ After analyzing interested parties' comments, we modified the scope of the lawn mowers investigations to address the overlap.⁹ We have not made any changes to the scope of this and the concurrent AD investigation from that published in the *Preliminary Determination*. See Appendix I to this notice.

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation and the issues raised in the case and rebuttal briefs by parties in this investigation are discussed in the Issues and Decision Memorandum. A list of the issues that parties raised is attached to this notice as Appendix II.

Methodology

Commerce conducted this investigation in accordance with section 701 of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found countervailable, Commerce determines that there is a subsidy, *i.e.*, a financial contribution by an “authority” that gives rise to a benefit to the recipient, and that the subsidy is specific.¹⁰ For a full description of the methodology underlying our final determination, *see* the Issues and Decision Memorandum.

⁶ See Preliminary Scope Decision Memorandum.

⁷ See Memorandum, “Certain Vertical Shaft Engines Between 99cc and Up To 225cc, and Parts Thereof from the People’s Republic of China: Scope Comments Decision Memorandum for the Final Determination,” dated concurrently with, and hereby adopted by, this notice (Final Scope Decision Memorandum).

⁸ See Memorandum, “Antidumping and Countervailing Duty Investigations of Certain Vertical Shaft Engines between 99cc and up to 225cc, and Parts Thereof from the People’s Republic of China; Antidumping and Countervailing Duty Investigations of Certain Walk-Behind Lawn Mowers and Parts Thereof from the People’s Republic of China; and Antidumping Duty Investigation of Certain Walk-Behind Lawn Mowers from the Socialist Republic of Vietnam,” dated November 6, 2020.

⁹ See Memorandum, “Antidumping and Countervailing Duty Investigations of Lawn Mowers from the People’s Republic of China and the Socialist Republic of Vietnam: Preliminary Scope Decision Memorandum,” dated December 22, 2020.

¹⁰ See sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

Verification

Commerce was unable to conduct on-site verification of the information relied upon in making its final determination in this investigation. However, we took additional steps in lieu of an on-site verification to verify the information relied upon in making this final determination, in accordance with section 782(i) of the Act.¹¹

Changes Since the Preliminary Determination

Based on our review and analysis of the comments received from parties, we made certain changes to the subsidy rate calculations for Chongqing Kohler and Chongqing Zongshen. As a result of these changes, Commerce also revised the all-others rate. For a discussion of these changes, *see* the Issues and Decision Memorandum.

Final Determination

In accordance with section 705(c)(1)(B)(i)(I) of the Act, we calculated individual estimated subsidy rates for Chongqing Kohler and Chongqing Zongshen. Section 705(c)(5)(A)(i) of the Act states that, for companies not individually investigated, Commerce will determine an all-others rate equal to the weighted-average countervailable subsidy rates established for exporters and/or producers individually investigated, excluding any zero and *de minimis* countervailable subsidy rates, and any rates determined entirely under section 776 of the Act. Therefore, Commerce calculated the all-others rate using a simple average of the individual estimated subsidy rates calculated for the examined respondents.¹²

Commerce determines the total estimated net countervailable subsidy rates to be the following:

¹¹ *See* Chongqing Kohler's Letter, "Certain Vertical Shaft Engines Between 99cc and up to 225cc, and Parts Thereof, from the People's Republic of China: Response of Chongqing Kohler Engines Ltd. and Kohler (China) Investment Co. Ltd. to in Lieu of Verification Questionnaire," dated November 25, 2020; and Chongqing Zongshen's Letter, "Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof, from China; CVD Investigation; Zongshen Verification Questionnaire Response," dated November 25, 2020.

¹² As complete publicly ranged sales data was unavailable, we calculated the all-others rate using the simple average of Chongqing Kohler and Chongqing Zongshen's subsidy rates. *See e.g., Certain Corrosion Inhibitors from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 86 FR 7537 (January 29, 2021) (relying on a simple average because complete publicly ranged sales data was unavailable).

Producer/Exporter	Subsidy Rate (percent)
Chongqing Kohler Engines Ltd.	2.84
Chongqing Zongshen General Power Machine Co.	18.13
All Others	10.46

Disclosure

Commerce intends to disclose the calculations performed in connection with this final determination within five days of the date of public announcement or, if there is no public announcement, within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

As a result of our *Preliminary Determination* and pursuant to sections 703(d)(1)(B) and (d)(2) of the Act, Commerce instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in the scope of the investigation section, entered, or withdrawn from warehouse, for consumption on or after August 24, 2020, the date of publication of the *Preliminary Determination* in the *Federal Register*.

If the U.S. International Trade Commission (ITC) issues a final affirmative injury determination, we intend to issue a CVD order, reinstate the suspension of liquidation under section 706(a) of the Act, and require a cash deposit of estimated countervailing duties for such entries of subject merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. Because the final determination in this proceeding is affirmative, in accordance with section 705(b) of the Act, the ITC will make its final determination as to whether the

domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of small vertical engines from China no later than 45 days after our final determination. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all cash deposits will be refunded. If the ITC determines that such injury does exist, Commerce will issue a CVD order directing CBP to assess, upon further instruction by Commerce, countervailing duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the “Continuation of Suspension of Liquidation” section.

Notification Regarding Administrative Protective Order (APO)

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to the APO of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act, and 19 CFR 351.210(c).

Dated: March 5, 2021.

Christian Marsh,
Acting Assistant Secretary
for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation consists of spark-ignited, non-road, vertical shaft engines, whether finished or unfinished, whether assembled or unassembled, whether mounted or unmounted, primarily for walk-behind lawn mowers. Engines meeting this physical description may also be for other non-hand-held outdoor power equipment, including but not limited to, pressure washers. The subject engines are spark ignition, single-cylinder, air cooled, internal combustion engines with vertical power take off shafts with a minimum displacement of 99 cubic centimeters (cc) and a maximum displacement of up to, but not including, 225cc. Typically, engines with displacements of this size generate gross power of between 1.95 kilowatts (kw) to 4.75 kw.

Engines covered by this scope normally must comply with and be certified under Environmental Protection Agency (EPA) air pollution controls title 40, chapter I, subchapter U, part 1054 of the Code of Federal Regulations standards for small non-road spark-ignition engines and equipment. Engines that otherwise meet the physical description of the scope but are not certified under 40 CFR part 1054 and are not certified under other parts of subchapter U of the EPA air pollution controls are not excluded from the scope of these proceedings. Engines that may be certified under both 40 CFR part 1054 as well as other parts of subchapter U remain subject to the scope of these proceedings.

Certain small vertical shaft engines, whether or not mounted on non-hand-held outdoor power equipment, including but not limited to walk-behind lawn mowers and pressure washers, are included in the scope. However, if a subject engine is imported mounted on such equipment, only the engine is covered by the scope. Subject merchandise includes certain small vertical shaft engines produced in the subject country whether mounted on outdoor power equipment in the subject country or in a third country. Subject engines are covered whether or not they are accompanied by other parts.

For purposes of this investigation, an unfinished engine covers at a minimum a sub-assembly comprised of, but not limited to, the following components: crankcase, crankshaft, camshaft, piston(s), and connecting rod(s). Importation of these components together, whether assembled or unassembled, and whether or not accompanied by additional components such as a sump, carburetor spacer, cylinder head(s), valve train, or valve cover(s), constitutes an unfinished engine for purposes of this investigation. The inclusion of other products such as spark plugs fitted into the cylinder head or electrical devices (*e.g.*, ignition coils) for synchronizing with the engine to supply tension current does not remove the product from the scope. The inclusion of any other components not identified as comprising the unfinished engine subassembly in a third country does not remove the engine from the scope.

Specifically excluded from the scope of this investigation are “Commercial” or “Heavy Commercial” engines under 40 C.F.R. §§ 1054.107 and 40 C.F.R. 1054.135 that have (1) a displacement of 160cc or greater, (2) a cast iron cylinder liner, (3) an automatic compression release, and (4) a muffler with at least three chambers and volume greater than 400cc.

The engines subject to this investigation are predominantly classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 8407.90.1010. The engine subassemblies that are subject to this investigation enter under HTSUS 8409.91.9990. The mounted engines that are subject to this investigation enter under HTSUS 8433.11.0050, 8433.11.0060, and

8424.30.9000. Engines subject to this investigation may also enter under HTSUS 8407.90.1020, 8407.90.9040, and 8407.90.9060. The HTSUS subheadings are provided for convenience and customs purposes only, and the written description of the merchandise under investigation is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Final Affirmative Determination of Critical Circumstances
- IV. Subsidies Valuation Information
- V. Use of Facts Otherwise Available and Adverse Inferences
- VI. Analysis of Programs
- VII. Analysis of Comments
 - Comment 1: Income Tax Deduction for Research and Development (R&D) Expenses Under the Enterprise Income Tax Law
 - Comment 2: Export Buyer's Credit Program
 - Comment 3: Whether the Electricity for Less-Than-Adequate-Remuneration (LTAR) Program is Specific
 - Comment 4: Whether Commerce Should Revise its Critical Circumstances Analysis
 - Comment 5: Whether Commerce Should Find Critical Circumstances for Chongqing Kohler and Companies Covered by the All-Others Rate
 - Comment 6: Whether Commerce Should Countervail Certain of Chongqing Kohler's Bank Acceptance Notes
 - Comment 7: Whether Chongqing Zongshen's Input Suppliers are Government Authorities
 - Comment 8: Whether Commerce Should Rely on Consolidated Sales Data in Attributing Subsidies Received by Zongshen Group or Zongshen Power
 - Comment 9: Whether Commerce Should Adjust Chongqing Zongshen's Policy Loans Calculations
 - Comment 10: Whether Commerce Should Adjust Chongqing Zongshen's Land-Use Rights for LTAR Calculation
 - Comment 11: Whether Commerce Should Reverse Its Uncreditworthiness Determination for Chongqing Zongshen
- VIII. Recommendation

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